

1 Joseph D. Horne
2 #V-84328
3 V.V.S.R.
4 P.O. Box-5102
5 Delano, CA 93216
6

FILED
SEP - 2 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

7 IN UNITED STATES DISTRICT COURT
8 OF NORTHERN DISTRICT OF CALIFORNIA.
9

10 Joseph P. Horne,
11 Petitioner...
12 v.
13 Robert Horne, warden,
14 Respondent...
15

CASE NO. 07-4592-SBA

"REQUEST FOR
EVIDENTIARY
HEARING..."

16
17 Petitioner Joseph Horne hereby
18 request an "Evidentiary Hearing" to
19 be held regarding the current
20 case before the Honorable Distr-
21 ict court.

22
23 Petitioner Request that the
24 Honorable District court hold an
25 "Evidentiary Hearing for the
26 following reasons:

27 (1) Petitioner plans to show their
28 testimony of Robert T. Hatcher

1 (trial counsel for petitioner) and
2 GARRY ST. CLAIR (P.T. for petitioner)
3 that trial counsel never expressed
4 to the petitioner any doubt any
5 part of the petitioner's story be-
6 fore trial...Further, to show that
7 counsel disbelieved that petitioner
8 was not at the "Baby Shower" (alibi
9 for count one) was mere spe-
10 culation, a belief that's was not
11 provoked by any admission by the
12 petitioner, nor, was such belief pro-
13 voked by any type of evidence.

14
15 (2.) Petitioner desires to show evid-
16 ence that Many, if not all, witnesses
17 were afraid to speak for any side,
18 especially the defense because
19 of allegations made by the D.A.
20 in open court that petitioner's P.T.
21 GARRY ST. CLAIR, was involved in hav-
22 ing witness in petitioner's case
23 shot at...An allegation that forced
24 the court to order petitioner's
25 P.T. to stay away from all of the
26 witness. Such allegation and order
27 was made on record by the
28 the prosecutor and Honorable

1 Judge Sillman... such evidence will
2 surely show that Robert T. Hatcher
3 Reason for not believing Petition-
4 er's alibi was insufficient and absur-
5 rd... Due to the fact counsel knew
6 with no doubt why witness would
7 not speak to petitioner's defense.
8 team.

9
10 (3.) Petitioner plans to show that
11 trial counsel possessed no evid-
12 ence that petitioner was being
13 untruthful at any time. (which may
14 be evident in trial counsel declar-
15 ation filed in the state courts...
16 but petitioner believes it would
17 be more settled if counsel was
18 forced to undergo cross exami-
19 nation regarding his ethical
20 obligation claim that petitioner
21 believe he coated in his attempt
22 to intimidate petitioner in hopes
23 that he would not testify on his
24 own behalf...)

25
26 (4.) Petitioner desires to show
27 evidence that he was not inform-
28 ed that his trial counsel would

1 set out and not protect him during
2 cross-examination.

3
4 Further, an "Evidentiary Hearing"
5 is necessary for the reasons set
6 forth above...and for any argu-
7 ments set forth by Petitioner in his
8 "Brief" that the Honab-Honorable
9 feels need to be proven further.

10
11 Petitioner hereby declares
12 under penalty of perjury that the
13 foregoing is true...

14
15 Executed at V.V.S.P. on 8/25/08

16
17
18 Signed 

19
20
21 PROPER Joseph Horne

22 V.V.S.P.

23 P.O. Box-5102

24 Delano, CA 93216

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5:28 U.S.C. § 1746)

I, Joseph Horne, declare:

I am over 18 years of age and a party to this action. I am a resident of K.V.S.P.
Prison,

in the county of Kern County
State of California. My prison address is: P.O. Box 5102
Delano, CA 93216

On August 26th 2008

I served the attached: Motion for "Evidentiary
Hearing."

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope,
with postage thereon fully paid, in the United States Mail in a deposit box so provided in the
above-named correctional institution in which I am presently confined. The envelope was
addressed as follows:

Attorney General
455 Golden Gate Avenue Suite 11000
San Francisco, CA 94102-7004

I declare under penalty of perjury under the laws of the United States of America that the
forgoing is true and correct.

Executed on August 26th 2008

[Signature]
(DECLARANT'S SIGNATURE)